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IN THE

Supreme Court of the United States

OCTOBER TERM, 1973

No. 73-1301

RICHARD L. BORDEN, ET AL.,

Petitioners,

v.

DIRECTOR, STATE DEPARTMENT OF ASSESSMENTS AND TAXATION, ET AL.,

Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS OF MARYLAND

BRIEF IN OPPOSITION OF RESPONDENT, STATE DEPARTMENT OF ASSESSMENTS AND TAXATION

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OPINIONS BELOW

The Order of the Court of Appeals of Maryland dated November 26, 1973, denying a Petition for a Writ of Certiorari to the Court of Special Appeals of Maryland is printed in Appendix A of the Petition. The opinion of the Court of Special Appeals, dated October 9, 1973, is printed in Ap-

pendix A of the Petition and is reported in 19 Md. App. 112, 309 A.2d 773. The unreported opinion of the Circuit Court for Anne Arundel County dated June 25, 1973, which was appealed to the Court of Special Appeals of Maryland, is printed in Appendix A of the Petition.

JURISDICTION

The Order of the Court of Appeals of Maryland denying the Petition for a Writ of Certiorari to the Court of Special Appeals of Maryland was entered on November 26, 1973. Within ninety days thereafter, Petitioners filed with this Court a Petition for Writ of Certiorari to the Court of Appeals of Maryland pursuant to 28 U.S.C. §1257(3). This Respondent submits that this Court lacks jurisdiction to review by Writ of Certiorari the Order entered by the Court of Appeals of Maryland since there are adequate and independent state grounds to support the Order, and further, since this matter is now moot.

QUESTIONS PRESENTED

1. Whether adequate and independent State grounds support the decision below denying to Petitioners, in a Maryland equity court, tax refund and injunctive relief against their real property assessments, where Petitioners failed to utilize or exhaust their statutory administrative remedies, and where the relief sought by Petitioners could have been granted by those administrative tribunals?

2. Whether the availability of relief under *Hillsborough Township v. Cromwell*, 326 U.S. 620 (1946) is a moot question where there was no finding on the merits of that Petitioners' reassessments were violative of the Fourteenth Amendment?

3. Whether the Court below correctly found that there had been no showing of a purposeful discrimination against Petitioners?

STATUTES INVOLVED

The statutes involved are the following Maryland tax statutes in the Annotated Code of Maryland (1969 Replacement Volume and 1973 Cumulative Supplement):

Volume 7, Article 81

Section 2 (20)
Section 29 (a) and (b)
Section 213
Section 214 (a)
Section 229 (l)
Section 232 (8) (a) and (b)
Section 255 (a) and (b)
Section 256 (a)

These statutes are printed in Appendix A of this Brief in Opposition. Article 15 of the Declaration of Rights of the Constitution of the State of Maryland, Section 1 of the Fourteenth Amendment to the Constitution of the United States and Sections 232 (8) (a) and (b) of Article 81 of the Annotated Code of Maryland are printed at pages 21a-24a of Appendix B of the Petition.

STATEMENT OF THE CASE

Petitioners are owners of real property in Anne Arundel and Talbot Counties, Maryland, whose properties were reassessed in either 1971 or 1972 for purposes of *ad valorem* taxation. Alleging that the assessments were in whole or in part void and illegal under State statutes and violative of State and federal constitutional uniformity principles, Petitioners sought in this proceeding, *inter alia*, to have a Maryland equity court (the Circuit Court for Anne Arundel County) enjoin various State and County officials from utiliz-

ing those assessments for tax purposes, and order a refund of any taxes based on those assessments. Factually, Petitioners contended that while their properties had been reassessed, other properties in the two counties which had changed in value had not been reassessed and that this was contrary to Sections 232(8) (a) and (b) of Article 81 of the Annotated Code of Maryland, providing for annual reviews of all assessable real properties and reassessments of such properties as to which the review disclosed a change in value. They further alleged that contrary to Sections 232(8) (a) and (b), reassessments were made on a three-year rotational basis so that one-third of the residential properties in each county were reviewed for reassessment each year.

Thereafter all Respondents moved for summary judgment contending that a Maryland equity court has no power to grant relief from real property assessments or taxes based thereon. On June 25, 1973, the Circuit Court granted that motion holding that an administrative tribunal had been created to remedy the wrongs complained of by Petitioners and that they must utilize and exhaust those remedies; and further that similar statutory remedies existed for obtaining a refund of taxes.

That decision was affirmed by the Court of Special Appeals on October 9, 1973, and on November 26, 1973, the Court of Appeals denied a Petition for Writ of Certiorari. It is that ruling which Petitioners seek to bring before this Court.

The June 25, 1973, decision of the Circuit Court did not pass on the merits of Petitioners' allegations, *i.e.*, conformity of assessment practices with substantive law. On July 11, 1973, Petitioners moved for summary judgment on these issues. The Circuit Court, on August 29, 1973, ruled that the assessing authorities were "falling short of enforcing a continuing method of real property reassessment that Section

232(8)(b) requires," due to a lack of funding. Although Petitioners had expressly sought in their motion a declaration that the assessment practices were in violation of State and federal constitutional provisions, there was no finding by the Circuit Court that Respondents' practices intentionally or arbitrarily discriminated against Petitioners. (Appendix A of the Petition at 15a-20a.) Neither Petitioners nor Respondents appealed that decision.

ARGUMENT

I.

ADEQUATE AND INDEPENDENT STATE GROUNDS SUPPORT THE DECISION BELOW DENYING TO PETITIONERS, IN A MARYLAND EQUITY COURT, TAX REFUND AND INJUNCTIVE RELIEF AGAINST THEIR REAL PROPERTY ASSESSMENTS, WHERE PETITIONERS FAILED TO UTILIZE OR EXHAUST THEIR STATUTORY ADMINISTRATIVE REMEDIES, AND WHERE THE RELIEF SOUGHT BY PETITIONERS COULD HAVE BEEN GRANTED BY THOSE ADMINISTRATIVE TRIBUNALS.

Under Maryland law, recovery of taxes paid is precluded, except to the extent that the taxing statute provides therefor. *Rapley v. Montgomery County*, 261 Md. 98, 110, 274 A.2d 124, 130 (1971). Sections 213 and 214 of Article 81 of the Annotated Code of Maryland provide the exclusive method for obtaining a refund based on erroneous or excessive real property assessment. *Wasena Housing Corp. v. Levay*, 188 Md. 383, 394, 52 A.2d 903, 908 (1947) ("word 'erroneous' is broad enough to cover all types of error, even those that may invalidate an assessment or render it void. . . . [T]he remedy by way of appeal is exclusive in this type of case.") Accordingly, both the Circuit Court and the Court of Special Appeals held that an equity court lacks power to order a tax refund in this case.

The procedure for challenging *ad valorem* real property assessments is also clearly defined by the Maryland revenue

laws. Pursuant to Section 29(a) and (b) of Article 81 of the Annotated Code of Maryland, Petitioners were entitled to, and received, notice at least twenty days before the "date of finality" of their proposed reassessments. Under Section 255(a) of Article 81, Petitioners had the right to demand at any time before the date of finality a hearing before the assessing officials as to their assessments. If dissatisfied with the results of that hearing, they had under Section 255(b) a right to a further *de novo* hearing before the county commissioners or appeal tax court, if one had been created by the county commissioners. They thereafter had the right to a *de novo* appeal to the Maryland Tax Court under Section 256(a) of Article 81, and Section 229(l) of Article 81 grants a further right of appeal to the Court of Appeals of Maryland from any Maryland Tax Court decision. Thus, all of the Petitioners had the *right* to ultimately appeal to the Court of Appeals of Maryland had they utilized their administrative remedies.

These administrative procedures also would have provided Petitioners with the relief they seek herein, upon a showing of an intentional and arbitrary discrimination. In *Sears, Roebuck & Co. v. State Tax Commission*, 214 Md. 550, 136 A.2d 567 (1957), an administrative appeal, the evidence showed that certain personal property was assessed at full value, while real property was assessed at only a portion of full value, and that real and personal property were not separately classified for purposes of assessment. On the authority of *Hillsborough Township v. Cromwell*, 326 U.S. 620 (1946), the Court of Appeals, finding intentional and arbitrary discrimination, directed the reduction of the assessment of the taxpayer-appellant's personal property. The Maryland Tax Court has granted identical relief on the authority of *Hillsborough Township, supra* upon the showing of an intentional and arbitrary discrimination. See *Boothe*

Computer Corporation v. State Department of Assessments and Taxation, 2 C.C.H. Md. State Tax Rptr. ¶200-605 (1970); *Xerox v. State Department of Assessments and Taxation*, 2 C.C.H. Md. State Tax Rptr., ¶200-694 (1973).

Under Maryland law a court of equity will interfere with the collection of taxes only "when no appellate tribunal has been created with power to remedy the wrong." *Commissioners of Allegany County v. Union Mining Co.*, 61 Md. 545, 548 (1884). Compare *Reiling v. Comptroller*, 201 Md. 384, 388-89, 94 A.2d 261, 264 (1953), where a taxpayer sought a declaration in an equity court that his income tax assessment was void:

> "In tax assessment cases there are special reasons why there should be finality upon failure to exercise the statutory right of appeal and collateral attack should be prohibited. . . . [T]he [statutory] remedy by way of appeal from the assessment was exclusive. . . ."

The failure of Petitioners to utilize the statutory procedures created for the hearing of real property assessment challenges, and the availability of the relief they seek through those procedures upon a showing of intentional and arbitrary discrimination, therefore, provides an adequate and independent State ground for the decision in this case.

Thus, the Court of Special Appeals of Maryland correctly distinguished *Hillsborough Township, supra*, finding "no uncertainty surrounds a Maryland remedy available to the named appellants" (Appendix A of the Petition at 8a). As such, no federal question is presented in this case.

II.

THE AVAILABILITY OF RELIEF UNDER TOWNSHIP OF HILLSBOROUGH v. CROMWELL, 326 U.S. 620 (1946), IS A MOOT QUESTION SINCE THERE WAS NO FINDING ON THE MERITS THAT PETITIONERS' REASSESSMENTS WERE VIOLATIVE OF THE FOURTEENTH AMENDMENT.

The review which Petitioners seek herein is of only that ruling below that a court of equity could not grant the relief requested as to tax refunds or an injunction against the use for tax purposes of the reassessments of their properties. Thereafter, Petitioners sought and received a declaration on the merits that the assessment officials were "falling short of enforcing a continuing method of real property reassessment that Section 232(8) (b) requires," due to a lack of funding (Appendix A of the Petition at 19a).

At the same time, Petitioners sought a declaration that the assessment procedures were in violation of Article 15 of the Maryland Declaration of Rights and Section 1 of the Fourteenth Amendment of the Constitution of the United States (Appendix A of the Petition at 17a). The Circuit Court, however, rendered no declaration that Petitioners' reassessments were intentionally and arbitrarily discriminatory, and no timely appeal has been entered from that decision by any party. Petitioners having either been factually unable to, or having failed to, secure such a finding on the merits, the question of the availability of the relief afforded by *Hillsborough Township, supra*, is moot in this case.

III.

THE COURT BELOW CORRECTLY FOUND THAT THERE HAD BEEN NO SHOWING OF A PURPOSEFUL DISCRIMINATION AGAINST PETITIONERS.

In addition to finding that this case was outside of the scope of *Hillsborough Township, supra*, because the named Petitioners' statutory remedies were adequate, the court

below also found *Hillsborough* inapplicable because "there is no showing of a purposeful discrimination against [Petitioners]" (Appendix A of Petition at 8a). In so ruling, the lower court (not having the merits of the cause before it) assumed the existence of the alleged three-year rotational reassessments in each county (*i.e.*, that one-third of the properties of each county were reassessed each year on a rotating basis), and further assumed that such practices were not in conformity with Sections 232(8) (a) and (b) of Article 81 of the Annotated Code of Maryland (Appendix A of Petition at 6a, 9a).[1] That decision, that no constitutional discrimination, either state or federal, had been shown, is correct.

This Court has previously approved on federal constitutional grounds practices analogous to the three year rotational assessments alleged herein. In *Thomas v. Gay*, 169 U.S. 264, 281 (1898), it was stated:

> "[I]t is complained that this law violates the principle of uniformity, and operates as an unjust discrimination, because it provides for an assessment of cattle, kept and grazed on the Indian reservations, at a different time than that provided for the assessment of personal property, including cattle, in the organized county.
>
> "It is not unusual for tax laws to authorize the assessment of different classes of property at different dates, and even of the same classes of property in different localities at different dates. Such matters of regulation must be supposed to be within the power of the State or territory, and to have their reasons in special facts known to the Legislature."

Compare *Rogan v. County Commissioners of Calvert County*, 194 Md. 299, 71 A.2d 47 (1950) where the Court of Appeals

[1] Effective July 1, 1972, new subsection 232(8)(c) of Article 81 was added, providing in part that, "All assessable real property in every county . . . shall be physically inspected for reassessment at least once in every three (3) years." Subsections 282(8)(a) and (b) were not, however, affected by that amendment.

sustained on equal protection grounds a former statute providing for assessments of the same classes of property in different districts in different years so that all assessments in a given county would be reviewed in a five year period, citing *Thomas v. Gay, supra.*

When viewed in this light, Petitioners' contention that the Circuit Court's finding on the merits (a decision which is not before this Court) that the assessing officials were not in full compliance with Section 232(8)(b) of Article 81 constitutes a showing of constitutionally discriminatory assessments within the meaning of *Hillsborough Township, supra,* cannot stand. Their claim (Petition at 9) that the allegedly illegal assessment practices have continued since 1956 is particularly significant in this regard. As this Court stated in *Nashville, C. & St. L. Ry. v. Browning,* 310 U.S. 362, 369-70 (1940):

> "Since so far as the Federal Constitution is concerned, a state can put railroad property into one pigeonhole and other property into another, the only question relevant for us is whether the state has done so. If the discrimination of which the Railway complains has been formally written into the statutes of Tennessee, challenge to its constitutionality would be frivolous. If the state supreme court had construed the requirement of uniformity in the Tennessee Constitution so as to permit recognition of these diversities, no appeal could successfully be made to the Fourteenth Amendment. Here, according to petitioner's own claim, all the organs of the state are conforming to a practice, systematic, unbroken for more than forty years, and now questioned for the first time. It would be a narrow conception of jurisprudence to confine the notion of 'laws' to what is found written on the statute books, and to disregard the gloss which life has written upon it. Settled state practice cannot supplant constitutional guarantees, but it can establish what is state law. The equal protection clause did not write an empty formalism into the Constitution. Deeply embedded traditional ways of carrying out state

> policy, such as those of which petitioner complains, are often tougher and truer law than the dead words of the written text. Compare Carino v. Insular Government, 212 U.S. 449, 459, 29 S. Ct. 334, 336, 53 L. Ed. 594. And if the state supreme court chooses to cover up under a formal veneer of uniformity the established system of differentiation between two classes of property, an exposure of the fiction is not enough to establish its unconstitutionality. Fictions have played an important and sometimes fruitful part in the development of law; and the equal protection clause is not a command of candor. So we are of opinion that such a discrimination, not invidious but long-sanctioned and indeed conventional, would not be offensive to the Fourteenth Amendment simply because Tennessee had reached it by a circuitous road. It is not the Fourteenth Amendment's function to uproot systems of taxation inseparable from the state's tradition of fiscal administration and ingrained in the habits of its people."[2]

Thus, since as the court below noted (Appendix A of Petition at 8a-9a) Petitioners do not contend that assessments *within* the one-third of the properties reassessed in each year are discriminatory, no federal equal protection violation has been shown in this case. Hence, if this case presents a federal question, it has been properly decided.

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[2] In this regard Petitioners' quotation from Note, *Inequality in Property Tax Assessments: New Cures for an Old Ill*, 75 Harv. L. Rev. 1374, 1375 (1962) (Petition at page 7) is significant in what it omits therefrom at line 6 by asterisks. It is there stated, citing *Browning, supra:*

> "The Supreme Court has held that such classification, so long as it is reasonable, does not violate the equal protection clause even though it contravenes the State's own law."

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the petition for a writ of certiorari should be denied.

Respectfully submitted,

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APPENDIX A — STATUTES

ARTICLE 81

§ 2. Definitions

As used in this article:

(20) The phrase "*date of finality*" means the date as of which assessments become final for the taxable year next following, subject only to correction as herein authorized. The phrase "*semiannual date of finality*" means the date as of which assessments shall be made for all real property becoming assessable up to that time and after the next previous date of finality. The phrase "*quarterly date of finality*" means the date as of which assessments may be made for all real property becoming assessable up to that time and after the next previous semiannual date of finality. These dates are as specified in § 29A of this article.

* * * * * *

§ 29. Notice.

(a) *When required.* — Before (1) any existing valuation of property for tax purposes shall be increased, or (2) any classification of any property changed, or (3) any new valuation of property made against any person; or (4) whenever any person applies for a change in an existing valuation or classification and there is a change or refusal to change an existing valuation or classification, or (5) whenever a valuation or classification for a given year, or part thereof, has been appealed, but not finally determined, and the same valuation or classification is made for a subsequent year, on property locally assessed, either by the State Department of Assessments and Taxation (acting within its original jurisdiction), the supervisors of assessments for the county or department of assessments of Baltimore City, it shall be the duty of the appropriate authority to notify the person against whom it is proposed to make, increase, change or refuse to change such valuation or classification by a written or printed notice, appointing a day for such person to make answer thereto or present such proof as he may desire in the premises. Failure to send a notice of assessment in the class of

cases set forth in clause (5) of this subsection shall not void any assessment for a subsequent year but the provisions of § 214A of this article shall be applicable.

(b) *Service.* — Such notice shall be served on such person at least twenty days before the date of finality or the day of hearing appointed therein, in the following manner, that is to say, either (1) by personal service in the manner in which original process in an action of at law is required to be served, by the sheriff, or (2) by leaving a copy of such summons at such person's last place of abode, or (3) by placing a copy of the notice in the United States mail postage prepaid, addressed to such person at his ordinary post-office address for the receipt of mail, in a sealed envelope with the return address of the State Department of Assessments and Taxation, supervisors of assessments or department of assessments of Baltimore City, as the case may be, on the outside, provided that if such person resides or does business in Baltimore City, it shall be sufficient if said envelope be addressed to the residence or place of business of such person as it appears in the then latest edition of the Baltimore City directory or telephone directory, and provided also that a record of the date of mailing and manner of addressing said envelope shall be contemporaneously made and carefully preserved among the records of the appropriate authority, or (4) if the property to be valued or classified be real estate situated in Baltimore City having a street number; and the name of the owner is unknown or does not appear in such directory, then by addressing and mailing an envelope containing a copy of such notice in the manner prescribed in subdivision (3) of this paragraph to such street number a record being similarly kept of the date and manner of such posting, or (5) if the property to be valued or classified be real estate or tangible personal property and the owner thereof is unknown or a nonresident or cannot be found or served in any manner hereinabove authorized, then by serving such notice upon the person, if any, in actual custody and possession thereof or if no person be found in actual possession or custody thereof, then by posting the same conspicuously upon such real estate or tangible personal property; provided that

if the mail address of such person be known, even though he be a nonresident, it shall be the duty of such taxing authority (though not a condition precedent to the validity of the valuation) to mail a copy of the notice to such address.

* * * * * *

§ 213. State taxes.

Whenever any person shall claim to have erroneously or mistakenly paid into the treasury of the State more money for ordinary taxes than was properly and legally chargeable to or collectible from such person he may file with the Comptroller of the State a written demand for the refund thereof, which, if approved by the Comptroller, shall be refunded out of any funds appropriated for such purpose, or, if no such funds are available, shall be certified to the Governor for inclusion in the next budget. In the case of ordinary State taxes erroneously or mistakenly paid to any collector or other agent authorized by law to collect such taxes, claims for refund may be made upon such collector or other agent who, if authorized by the State Comptroller, may refund the same out of any State funds in the hands of such collector or other agent. No refund shall be made, approved or certified in any case where it appears that the assessment upon which such taxes were levied and collected has become final and has not been modified on appeal as provided in this article, and the only basis for the refund is a claim that such assessment was erroneous or excessive; provided, however, that this prohibition shall not apply to any case in which a person has paid a tax bill which is erroneous by reason of any mere mathematical, mechanical or other clerical error by the taxing authority, exclusive of any error of valuation, in the computation, calculation or recordation of the assessment upon which said tax bill is based. Such claim for refund shall be in such form, verified in such manner, contain such information and be supported by such documents as may be prescribed by regulations of the Comptroller, and shall be filed within three years from the date of the payment of the ordinary taxes for which refund is requested.

§ 214. County, municipal or Baltimore City taxes.

(a) *Generally.* — Whenever any person shall claim to have erroneously or mistakenly paid to the county commissioners of any county, or to the collector for such county, or to the collector or other official of any municipality, or to the mayor and city council of Baltimore, or the collector for Baltimore City, more money for ordinary county or city taxes than was properly and legally chargeable to or collectible from such person he may file with the collector in any county or municipality or the appeal tax court in Baltimore City, a written application for the refund thereof, and if approved by such collector, or the said appeal tax court the said county commissioners or the said municipal officials or the mayor and city council of Baltimore shall levy and pay to such person any money that was so paid. No refund shall be made or approved in any case where it appears that the assessment upon which such taxes were levied and collected has become final and has not been modified on appeal as provided in this article, and the only basis for the refund is a claim that such assessment was erroneous or excessive; provided, however, that this prohibition shall not apply to any case in which a person has paid a tax bill which is erroneous by reason of any mere mathematical, mechanical or other clerical error by the taxing authority, exclusive of any error of valuation, in the computation, calculation or recordation of the assessment upon which said tax bill is based. Such claim for refund shall be in such form, verified in such manner, contain such information and be supported by such documents as may be prescribed by regulations of the county commissioners or ordinance of any municipality or ordinance of the mayor and city council of Baltimore and shall be filed within three years from the date of the payments of the ordinary taxes for which refund is requested.

* * * * * *

§ 229. Procedure on appeals to and from Court.

(l) *Appeal to Court of Appeals.* — Any party to the proceedings may appeal from the Court's final order directly to the Court of Appeals.

* * * * * *

§ 255. Hearing before supervisor of assessments and property tax assessment appeal board.

(a) *Before supervisor of assessments.* — With respect to any property assessed locally, any taxpayer, or city, or the Attorney General or Department may demand a hearing before the supervisor of assessments or their respectively designated representatives, as to the assessment of any property or any unit of tax value, or as to the increase, reduction, or abatement of any such assessment, or as to the classification thereof, for the next ensuing year. Except as provided in § 29 (f) of this article, no demand for a hearing shall be granted under this subsection unless answer or protest to a notice as to assessments was made, in the counties or Baltimore City with the supervisor of assessments within twenty days from the date of such notice, or unless application for revaluation or reclassification as to an existing or proposed assessment was made in the counties with the supervisor of assessments before the date of finality for the taxable year in question, or in Baltimore City before October first preceding the taxable year in question; provided however where the taxpayer is required to report personal property in such detail as to show the cost or market value thereof, but the taxpayer fails to report accurately the cost or other data required to establish market value, and the taxpayer claims that the property is assessed at a higher valuation than it would be if it had been reported accurately; then a demand for a hearing shall be granted if such answer or protest to the notice as to the assessment on such property is made within three years from the date of such notice.

(b) *Before property tax assessment appeal board.* — With respect to any property assessed locally, any taxpayer, or city, or the Attorney General or Department on behalf of the State may demand a further hearing before the property tax assessment appeal board as to the assessment of any property or any unit of tax value, or as to the increase, reduction or abatement of, or refusal to increase, reduce or abate, any such assessment, or as to the classification thereof, made by the initial assessing authority for the next ensuing year. No demand for a hearing shall be granted under this sub-

section unless made within thirty days from the date of a final notice from the initial assessing authority as set forth in § 29 (g) of this article.

* * * * * *

§ 256. Appeals to Maryland Tax Court from final assessing authority of city or county.

(a) *In general.* — Any taxpayer, any city, or the Attorney General or Department on behalf of the State, or a supervisor of assessments as provided in § 234 of this article, or the county commissioners of any county where an appeal tax court has been duly created claiming to be aggrieved because of any assessment or classification, or because of any increase, reduction, abatement, modification, change or alteration or failure or refusal to increase, reduce, abate, modify or change any assessment, or because of any classification or change in classification, or refusal or failure to make a change, by any final assessing authority under § 255 of this article, may by petition appeal to the Maryland Tax Court therefrom as provided in § 229 in this article, and said Court shall hear and determine all such appeals within sixty days from the entry thereof. Such appeal shall be taken either (a) within thirty days after the date of the action or failure or refusal to act complained of, or (b) if an address shall have been filed with the final assessing authority appealed from by any person or corporation demanding a hearing as in § 255 provided, then by the person giving such address within thirty days from the date of mailing of the notice of the action by the final assessing authority to the person and address so given or (c) if the appellant is a supervisor of assessments, such appeal shall be taken within thirty days from the date of the final assessing authority sends notice of its action, in writing, by mail or otherwise, to the supervisor of assessments. No appeal on behalf of a taxpayer shall be allowed under this section from a failure or refusal to abate, reduce, or reclassify an existing assessment unless application in writing for such action shall have been filed by the appellant with the final assessing authority appealed from within the time limited for the filing of a demand for a hearing by § 255 of this article.